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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,256	11/19/2003	Erich Schwaerzler	12761/293065	7703

7590

12/21/2005

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EXAMINER
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HAWK, NOAH CHANDLER

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/717,256	SCHWAERZLER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Noah C. Hawk	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 and 26 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/13/04 &amp; 6/10/05</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: A heading is required for each section of the specification. Further, the Office recommends that the applicant remove paragraphs 0010 and 0016 as they add nothing to the application. Appropriate correction is required.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "bearing surface" of claim 6 must be shown and distinctly pointed out or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Figure 17 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The phrase "the slider penetrates said one of the drawer and its decor component and extends into the rear area of the drawer" is not clear as presently described in the specification or depicted in the drawings.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases "*and located in a cabinet*" and "*a vertical level of a front fore side of the cabinet*" in Claim 1 render the claims indefinite. The instant claims recite a "panel adjustment device" and the drawer upon which it is mounted but include language reciting a cabinet. It is unclear whether the applicant intends to claim the panel adjustment device and drawer or the combination of the panel adjustment device and drawer the cabinet. For the purposes of this examination, the Office interprets claims 1-15 to be directed only to the panel adjustment device and drawer. Any language regarding the cabinet will not be considered.

8. Claims 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. The phrases "*into a cabinet*" and "*a vertical level of a front fore side of the cabinet*" in Claim 16 renders the claims indefinite. The instant claims recite a "panel adjustment device" and the drawer upon which it is mounted but include language reciting a cabinet. It is unclear whether the applicant intends to claim the panel adjustment device and drawer or the combination of the panel adjustment device and drawer the cabinet. For the purposes of this examination, the Office interprets claims 16-17 to be directed only to the panel adjustment device and drawer. Any language regarding the cabinet will not be considered.

9. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "the slider is bent in a longitudinal extension of the slider to form the wedge-shaped sliding piece" because it is unclear what the relationship is between the slider, the longitudinal extension of the slider and the sliding piece.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

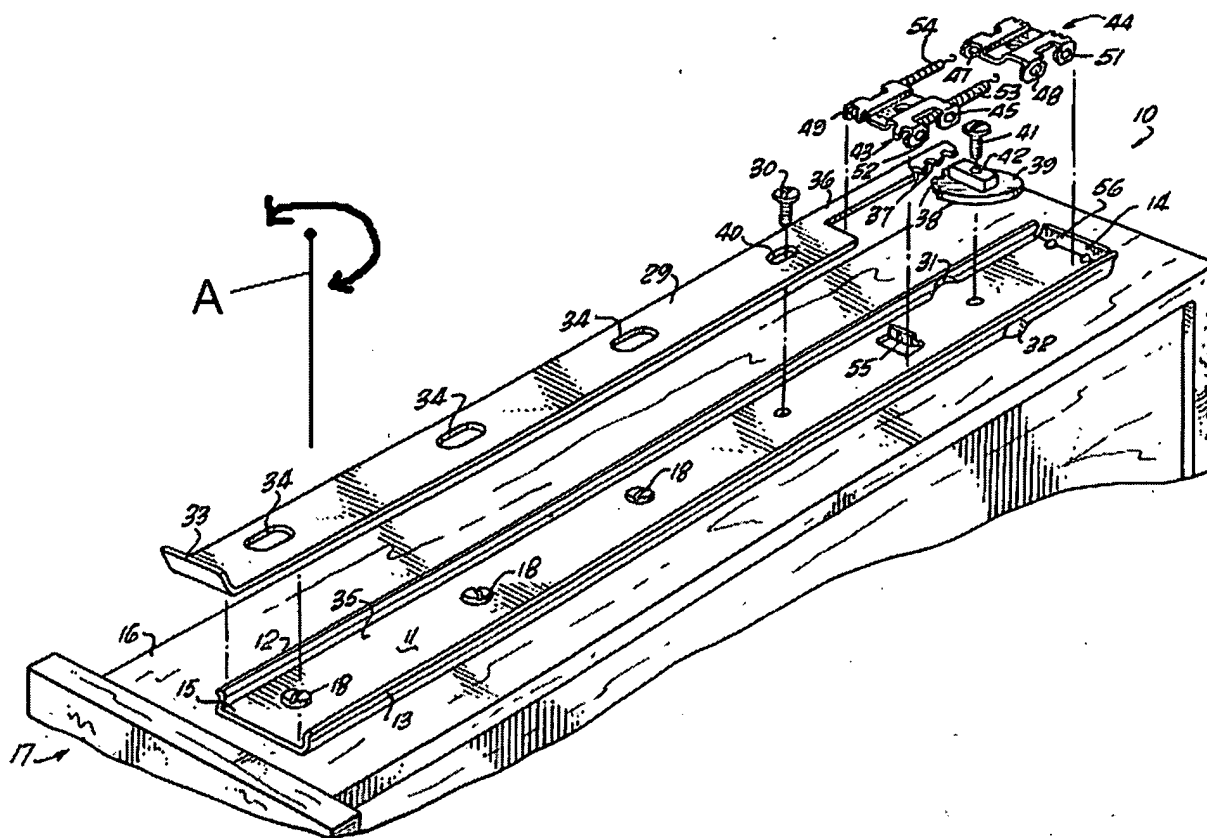
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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11. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Delmege et al. in US Patent 4679950.

a. Regarding Claim 1, Delmege et al. disclose a panel adjustment device as structurally claimed for a drawer equipped with a front panel and located in a cabinet by means of a rail system with at least one each of a drawer rail (11) and a cabinet rail (19) which panel adjustment device is suitable for changing an enclosed inclination angle between a vertical level of a front fore side of the cabinet and a vertical level of the front panel of the drawer, the panel adjustment device comprising a lifting and lowering device (the combination of 29, 33, 36, 41, and 39) that works between the drawer and the drawer rail to swivel the drawer relative to the drawer rail about a swiveling axis, the lifting and lowering device further comprising a lifting and lowering element (39) so that a swiveling of the drawer and with it the front panel of the drawer is possible around the swiveling axis (A) and wherein the swiveling axis is disposed between the front panel of the drawer and the lifting and lowering element and a distance between the swiveling axis and the front panel is not greater than a distance between the swiveling axis and the lifting and lowering element.



Delmege et al., Figure 2

- b. Regarding Claim 2, Delmege et al. further disclose a panel adjustment device wherein the swiveling axis (A) is closer to the front panel of the drawer than to the lifting and lowering element of the lifting and lowering device (best seen in Delmege et al., Figure 2).
- c. Regarding Claim 3, Delmege et al. further disclose that the swiveling axis (A) lies on the drawer rail and the lifting and lowering element (39) of the lifting and lowering device is in a rear area of the drawer on a lower compartment of the drawer (best seen in Delmege et al., Figure 1).



d. Regarding Claim 4, Delmege et al. further disclose that the lifting and lowering device further comprises a slider (36), an operating element (33) for the lifting and lowering element disposed in a front area of the drawer and a connection element (29) connecting the lifting and lowering element in the rear area of the drawer with the operating element in the front area of the drawer.

12. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Delmege et al. Delmege et al. disclose a panel adjustment device as structurally claimed for a drawer equipped with a front panel which is supported on both sides for movement of the drawer into a cabinet by means of a rail system with at least one each of a drawer rail (11) and a cabinet rail (19) which panel adjustment device is suitable for changing an enclosed inclination angle between a vertical level of a front fore side of the cabinet and a vertical level of the front panel of the drawer, the panel adjustment device comprising a lifting and lowering device (the combination of 29, 33, 36, 41, and 39) that operates between the drawer and the drawer rail to swivel the drawer relative to the drawer rail about a swiveling axis, the lifting and lowering device further comprising a slider (the combination of 33, 29 and 36) and a lifting and lowering element (39) so that a swiveling of the drawer and with it, the front panel of the drawer is made possible around the swiveling axis (A) and wherein the slider is formed out of a flat material (best seen in Delmege et al., Figure 2) which extends from a front area of the drawer rail to a back area of the drawer rail and is held movable in the front area of the drawer rail up to a center area on a horizontal shank (18) of a side wall lower component of the drawer

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and wherein the slider has a rear area (36) that is supported on the drawer rail with an end (37) of the slider formed as a wedge-shaped sliding piece.

13. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiers in US Patent 2928696.

e. Regarding Claim 1, Hiers discloses a panel adjustment device as structurally claimed for a drawer equipped with a front panel and located in a cabinet by means of a rail system with at least one each of a drawer rail (12) and a cabinet rail (24) which panel adjustment device is suitable for changing an enclosed inclination angle between a vertical level of a front fore side of the cabinet and a vertical level of the front panel of the drawer, the panel adjustment device comprising a lifting and lowering device (the combination of 31, 33, 35 and 37) that works between the drawer and the drawer rail to swivel the drawer relative to the drawer rail about a swiveling axis, the lifting and lowering device further comprising a lifting and lowering element (33) so that a swiveling of the drawer and with it the front panel of the drawer is possible around the swiveling axis (21) and wherein the swiveling axis is disposed between the front panel of the drawer and the lifting and lowering element and a distance between the swiveling axis and the front panel is not greater than a distance between the swiveling axis and the lifting and lowering element.

f. Regarding Claim 2, Hiers further discloses a panel adjustment device wherein the swiveling axis (21) is closer to the front panel of the drawer than to

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the lifting and lowering element of the lifting and lowering device (best seen in Hiers, Figure 1).

g. Regarding Claim 3, Hiers further discloses that the swiveling axis (21) lies on the drawer rail and the lifting and lowering element (33) of the lifting and lowering device is in a rear area of the drawer on a lower compartment of the drawer (best seen in Hiers, Figure 1).

### ***Allowable Subject Matter***

14. Claims 5-15 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Munday et al., Nelson, Lautenschlaeger et al., Hammerle, Bruestle et al., Teufel et al., Kauffman, and Salice disclose drawer adjustment devices. German Publication DT 2422408 discloses a wedge-shaped adjustment device for a drawer. Roeck in US Patent 5492400 discloses a drawer slide enclosed in the side of a drawer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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